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July 29, 1992

Office of the Secretary  
Federal Communications Commission  
Washington, DC 20554

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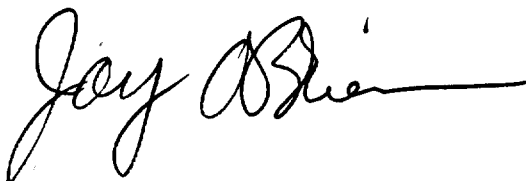
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Re: PR Docket No. 92-136

This transmits an original and nine copies of my formal filing on this proceeding. I am following paragraph 13 of the referenced docket to the best of my understanding in sending these copies to you. I trust my format meets your requirements.

If there is any problem with this filing, please contact me at the above address or at 916 991-2010 (after 9am Pacific, please) and I will attempt to comply with your wishes.

Thank you for your consideration.



encl: Original and 9 copies of comments on 92-136.

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AUG 3 1992

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

PR Docket No. 92-136

In the matter of

Amendment of Part 97 of the  
Commission's Rules to Relax  
Restrictions to the scope of  
Permissible Communications in  
the Amateur Service.

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RM-7849  
RM-7895  
RM-7896

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COMMENTS ON NOTICE OF PROPOSED RULE MAKING

The ARRL, in its petition (RM-7895) suggests certain principles which are quoted in footnote 7 of the subject NPRM. In that footnote is the ARRL's cogent statement "The yardstick the amateur operators would use for determining pecuniary interest would be the business implication of the licensee initiating the communication, not the recipient".

In my opinion, that concept is not clearly carried over to the suggested wording of 97.113 (a) (2). The suggested wording does not mention either the licensee initiating the communication or the licensee receiving the communication, nor does it mention a "business implication". I believe the wording should clearly identify the initiating licensee as the licensee who may not have a pecuniary interest in the subject communication, and I believe the wording should better define "business implication". I will explain why.

I am engaged in a business which involves Amateur Radio. I publish the "W6GO/K6HHD QSL Manager list" which is a cross-reference by callsign between amateur stations and other amateur stations who act as "managers" for the former. By referring to my publication, you may determine the correct mail route to use to obtain a "QSL card", the written confirmation of communication

that is used between amateur operators. Much of my data is obtained via amateur radio packet communications, originated by operators who do not have a pecuniary interest in my business. Also, I make my data available at no cost to those amateurs who can communicate with my station or with other like stations with whom I exchange data.

The present rules prohibit me from transmitting communications which facilitate my business. As I am giving away the information, the communications I provide do not facilitate my business, so they are permitted. Under the new rules as proposed, these communications may be prohibited because it can be said that I have a "pecuniary interest" in the information contained in the communication as I offer it elsewhere for sale in printed and computer formats. Further, the proposed rule could be interpreted to place anyone in violation of the rules who discusses anything in which he has a pecuniary interest.

The new rule as proposed could be interpreted that, for instance, a taxi driver cannot discuss his experiences as a taxi driver. A fry cook would not be able to discuss food without fear of violating the rules. These could be violations because the example operators have a pecuniary interest in the subject being discussed. The proposed rule could even be interpreted to prohibit me from using my callsign to communicate via amateur radio, as it is part of the name of a publication in which I have a pecuniary interest!

Clearly this is not the intent of the proposed rule changes. However, past experience shows the potential for such interpretations. For years, amateur radio carried communications for the Red Cross and for the Eye Bank. The rules were changed,

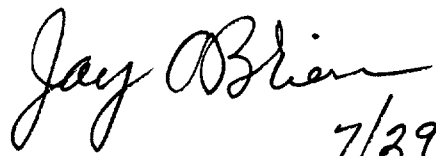
"better defining permitted communications", and years later someone identified that those communications were violating the rules. Those communications were then stopped. The new rule wording proposed in this docket has the same potential for inappropriate interpretation at a later date.

It is the stated intent of this NPRM to relax the rules and not to make them more restrictive. Some could interpret the proposed rules in the way that I have described, finding them to be more, not less, restrictive. To counter this possibility, I suggest that the first sentence of 97.113 (a)(2) be changed to read "Communications *which facilitate a pecuniary interest of the station licensee or control operator initiating the communication*, including communications on behalf of an employer". This would, in my opinion, be a much clearer rule that would better follow the ARRL proposal. It would allow me to continue the communications (on a non-charge basis) which include data in my publication. By identifying the initiator as the one to use the "yardstick", it will better follow the ARRL's intent. It would clearly allow amateur operators to continue in conversations relative to their line of work or in which they may have a pecuniary interest, as long as the communications themselves do not facilitate that pecuniary interest. I believe this is the Commission's intent. I am suggesting new wording which I feel may better stand the trials of time than the Commission's presently proposed wording.

Your consideration of my comments is appreciated.

Respectfully submitted,

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7/29/92